United States District Court
For the Northern District of California

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8   IN THE UNITED STATES DISTRICT COURT

9   FOR THE NORTHERN DISTRICT OF CALIFORNIA

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11   TYRONE L. REED,   No. C-11-1195 TEH (PR)

12   Plaintiff,

13   v.   ORDER OF DISMISSAL

14   NEWPORT TOBACCO COMPANY,

15   Defendant.

16   _____/

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18   Plaintiff, a pre-trial detainee presently housed at the

19   Santa Rita (Alameda County) jail, and frequent litigant in federal

20   court, has filed a pro se civil rights action pursuant to 42 U.S.C.

21   § 1983. Doc. #1. Plaintiff also seeks leave to proceed in forma

22   pauperis, which the court GRANTS in a separate order. The action is

23   now before the Court for initial screening pursuant to 28 U.S.C. §

24   1915A.

25   Federal courts must engage in a preliminary screening of

26   cases in which prisoners seek redress from a governmental entity or

27   officer or employee of a governmental entity. 28 U.S.C. § 1915A(a).

28   The court must identify cognizable claims or dismiss the complaint,

1 or any portion of the complaint, if the complaint "is frivolous,

2 malicious, or fails to state a claim upon which relief may be

3 granted," or "seeks monetary relief from a defendant who is immune

4 from such relief." Id. § 1915A(b). Pleadings filed by pro se

5 litigants, however, must be liberally construed. Hebbe v. Pliler,

6 627 F.3d 338, 341–42 (9th Cir. 2010); Balistreri v. Pacifica Police

7 Dep't., 901 F.2d 696, 699 (9th Cir. 1990).

8   To state a claim under 42 U.S.C. § 1983, a plaintiff must

9 allege two essential elements: (1) that a right secured by the

10 Constitution or laws of the United States was violated, and (2) that

11 the alleged violation was committed by a person acting under the

12 color of state law. West v. Atkins, 487 U.S. 42, 48 (1988).

13   Here, Plaintiff has filed a civil rights action against a

14 tobacco company for his apparent addiction to nicotine. Doc. #1 at

15 3. Simply put, Plaintiff's allegations are insufficient to state a

16 cognizable claim for relief under 42 U.S.C. § 1983. The action,

17 therefore, is DISMISSED with prejudice.

18   The Clerk is directed to terminate any pending motions as

19 moot and close the file.

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21   IT IS SO ORDERED.

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23 DATED   _04/07/2011_   _____
                                   THELTON E. HENDERSON
24   United States District Judge

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